

1 HB800
2 91397-2
3 By Representatives Bridges, Grantland, Laird, Allen, Todd,
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7 McClurkin, Kennedy, Boothe, Morrow, Rogers, Wood, Bentley,
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10 Coleman
11 RFD: Constitution and Elections
12 First Read: 02-MAY-07

SYNOPSIS: Under existing law, a person qualified to vote absentee pursuant to the federal Uniformed and Overseas Citizens Absentee Voting Act may make application for an absentee ballot by filling out the federal postcard application form.

This bill would authorize a qualified uniformed or overseas voter to request and vote an absentee ballot in any primary, second primary, general, special, municipal, or municipal runoff election, through a secure Internet site maintained by the Secretary of State if the person applies for the absentee ballot through the same Internet site not less than five days prior to the election in which he or she desires to vote. The bill would also provide penalties for any person who compromises the integrity or privacy of an Internet absentee ballot.

Amendment 621 of the Constitution of Alabama of 1901, now appearing as Section 111.05 of the Official ReCompilation of the Constitution of

1 Alabama of 1901, as amended, prohibits a general
2 law whose purpose or effect would be to require a
3 new or increased expenditure of local funds from
4 becoming effective with regard to a local
5 governmental entity without enactment by a 2/3 vote
6 unless: it comes within one of a number of
7 specified exceptions; it is approved by the
8 affected entity; or the Legislature appropriates
9 funds, or provides a local source of revenue, to
10 the entity for the purpose.

11 The purpose or effect of this bill would be
12 to require a new or increased expenditure of local
13 funds within the meaning of the amendment. However,
14 the bill does not require approval of a local
15 governmental entity or enactment by a 2/3 vote to
16 become effective because it comes within one of the
17 specified exceptions contained in the amendment.

18
19 A BILL
20 TO BE ENTITLED
21 AN ACT
22

23 To provide for an absentee balloting process through
24 a secure Internet site maintained by the Secretary of State
25 for certain uniformed and overseas voters; to amend Sections
26 17-11-10 and 17-17-24, Code of Alabama 1975, to further
27 provide for absentee voting pursuant to this act and to

1 provide penalties for any person who compromises the integrity
2 or the privacy of an absentee ballot voted through the
3 Internet; and in connection therewith would have as its
4 purpose or effect the requirement of a new or increased
5 expenditure of local funds within the meaning of Amendment 621
6 of the Constitution of Alabama of 1901, now appearing as
7 Section 111.05 of the Official Recompilation of the
8 Constitution of Alabama of 1901, as amended.

9 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

10 Section 1. (a) Notwithstanding any other laws to the
11 contrary, a member of the Armed Forces of the United States or
12 any person who is otherwise qualified to vote absentee
13 pursuant to the federal Uniformed and Overseas Citizens
14 Absentee Voting Act, 42 U.S.C. 1973ff, may apply for and vote
15 an absentee ballot in any primary, second primary, general,
16 special, municipal, or municipal runoff election through a
17 secure Internet site maintained by the Secretary of State not
18 less than five days prior to the election in which the
19 applicant desires to vote.

20 (b) The Secretary of State, in consultation with the
21 judges of probate, circuit clerks, boards of registrars,
22 municipal clerks, and the military department, shall
23 promulgate pursuant to the Administrative Procedure Act any
24 rules necessary to carry out the purposes of this act.

25 Section 2. Section 17-11-10, Code of Alabama 1975,
26 is amended to read as follows:

27 "§17-11-10.

1 "(a) Upon receipt of the absentee ballot, the
2 absentee election manager shall record its receipt thereof on
3 the absentee list as provided in Section 17-11-5 and shall
4 safely keep the ballot without breaking the seal of the
5 affidavit envelope.

6 "(b) For absentee ballots received by noon on the
7 day of the election, the absentee election manager shall,
8 beginning at noon, deliver the sealed affidavit envelopes
9 containing absentee ballots to the election officials provided
10 for in Section 17-11-11. The election officials shall then
11 call the name of each voter casting an absentee ballot with
12 poll watchers present as may be provided under the laws of
13 Alabama and shall examine each affidavit envelope to determine
14 if the signature of the voter has been appropriately
15 witnessed. If the witnessing of the signature and the
16 information in the affidavit establish that the voter is
17 entitled to vote by absentee ballot, then the election
18 officials shall certify the findings, open each affidavit
19 envelope, and deposit the plain envelope containing the
20 absentee ballot into a sealed ballot box.

21 "No poll worker or other election official shall
22 open an affidavit envelope if the envelope indicates the
23 ballot is an unverified provisional ballot or the affidavit
24 printed thereon is unsigned by the voter or unmarked, and no
25 ballot envelope or ballot therein may be removed or counted.
26 No poll worker or other election official shall open an
27 affidavit envelope if the voter's affidavit signature or mark

1 is not witnessed by the signatures of two witnesses or a
2 notary public, or other officer, including a military
3 commissioned officer, authorized to acknowledge oaths, and no
4 ballot envelope or ballot therein may be removed or counted.
5 The provision for witnessing of the voter's affidavit
6 signature or mark in Section 17-11-7 goes to the integrity and
7 sanctity of the ballot and election. No court or other
8 election tribunal shall allow the counting of an absentee
9 ballot with respect to which the voter's affidavit signature
10 or mark is not witnessed by the signatures of two witnesses 18
11 years of age or older or a notary public, or other officer,
12 including a military commissioned officer, authorized to
13 acknowledge oaths, prior to being delivered or mailed to the
14 absentee election manager.

15 "Upon closing of the polls, the absentee ballots
16 shall be counted and otherwise handled in all respects as if
17 the absentee voter were present and voting in person.

18 "Precinct ballot counters may be used to count
19 absentee ballots. Absentee election officials are to be
20 appointed and trained in the same manner as prescribed for
21 regular election officials. The number of absentee election
22 officials shall be determined by the number of precinct
23 counters provided. The county commission may provide more than
24 one precinct ballot counter based upon the recommendation of
25 the absentee election manager. Beginning not earlier than noon
26 on election day, the absentee election officials shall perform
27 the duties prescribed in Section 17-11-11.

1 "As regards municipalities with populations of less
2 than 10,000, in the case of municipal elections held at a time
3 different from a primary or general election, the return mail
4 envelopes containing the ballots shall be delivered to the
5 election official of the precinct of the respective voters,
6 unless the city or town having a population of less than
7 10,000 inhabitants has, by permanent ordinance adopted six
8 months prior to the municipal election, established a
9 procedure for the appointment of absentee election officials
10 pursuant to subsection (c) of Section 11-46-27.

11 "(c) Absentee ballots cast in a primary, second
12 primary, general, special, municipal, or municipal runoff
13 election ~~for federal, state, or county office~~ by individuals
14 voting pursuant to the federal Uniformed and Overseas Citizens
15 Absentee Voting Act, 42 U.S.C. 1973ff et seq., and received
16 after noon on the day of the ~~second primary~~ election, but not
17 later than noon seven days after the day of the election,
18 shall be opened and counted at the same time as the verified
19 provisional ballots. At noon seven days after the ~~second~~
20 ~~primary~~ election, the absentee election manager shall deliver
21 the sealed affidavit envelopes containing absentee ballots to
22 the officials provided for in subsection (f) of Section
23 17-10-2. The officials shall call the name of each voter
24 casting an absentee ballot in the presence of watchers
25 designated by any interested candidates and shall examine each
26 affidavit envelope to determine if the signature of the voter
27 has been appropriately witnessed. If the witnessing of the

1 signature and the information in the affidavit establish that
2 the voter is entitled to vote by absentee ballot, then the
3 election officials shall certify the findings, open each
4 affidavit envelope, and deposit the plain envelope containing
5 the absentee ballot into a sealed ballot box.

6 "No election official shall open an affidavit
7 envelope if the affidavit printed thereon is unsigned by the
8 voter or unmarked, and no ballot envelope or ballot therein
9 may be removed or counted. No election official shall open an
10 affidavit envelope if the voter's affidavit signature or mark
11 is not witnessed by the signatures of two witnesses or a
12 notary public, or other officer, including a military
13 commissioned officer, authorized to acknowledge oaths, and no
14 ballot envelope or ballot therein may be removed or counted.
15 The provision for witnessing of the voter's affidavit
16 signature or mark in Section 17-11-7 goes to the integrity and
17 sanctity of the ballot and election. No court or other
18 election tribunal shall allow the counting of an absentee
19 ballot with respect to which the voter's affidavit signature
20 or mark is not witnessed by the signatures of two witnesses 18
21 years of age or older or a notary public, or other officer,
22 including a military commissioned officer, authorized to
23 acknowledge oaths, prior to being delivered or mailed to the
24 absentee election manager. A ballot voted through a secure
25 Internet site maintained by the Secretary of State may be
26 authenticated through an alternative method, rather than by
27 witnesses or notarization. Any alternative method for

1 authentication shall be provided by rule promulgated by the
2 Secretary of State pursuant to the Administrative Procedure
3 Act.

4 "The absentee ballots described in this subsection
5 shall be opened, counted, and tabulated. The results of the
6 absentee ballots counted and tabulated on election day shall
7 be amended to include the results of the absentee ballots
8 described in this subsection.

9 "In all other respects, unless otherwise
10 specifically provided by law, the absentee ballots described
11 in this subsection shall be treated as other absentee ballots.

12 Section 3. Section 17-17-24, Code of Alabama of
13 1975, is amended to read as follows:

14 "§17-17-24.

15 "(a) Any person who willfully changes an absentee
16 voter's ballot to the extent that it does not reflect the
17 voter's true ballot, any person who willfully votes more than
18 once by absentee ballot in the same election, any person who
19 willfully votes for another voter or falsifies absentee ballot
20 applications or verification documents so as to vote absentee,
21 any person who compromises the integrity or privacy of a
22 ballot issued or voted through a secure Internet site
23 maintained by the Secretary of State, including, but not
24 limited to, disclosing the votes cast on the ballot, other
25 than election officials properly acting within the scope of
26 their responsibilities under this chapter, or any person who
27 solicits, encourages, urges, or otherwise promotes illegal

1 absentee voting, shall be guilty, upon conviction, of a Class
2 C felony. Any person who willfully aids any person unlawfully
3 to vote an absentee ballot, any person who knowingly and
4 unlawfully votes an absentee ballot, and any voter who votes
5 both an absentee and a regular ballot at any election shall be
6 similarly punished.

7 "(b) Upon request by the local district attorney or
8 the Secretary of State, the Attorney General shall provide
9 investigating assistance in instances of absentee ballot or
10 voting violations.

11 "(c) Nothing in this section shall be construed to
12 impede or inhibit organized legal efforts to encourage voter
13 participation in the election process or to discourage a
14 candidate from encouraging electors to lawfully vote by
15 absentee ballot."

16 Section 4. Although this bill would have as its
17 purpose or effect the requirement of a new or increased
18 expenditure of local funds, the bill is excluded from further
19 requirements and application under Amendment 621, now
20 appearing as Section 111.05 of the Official ReCompilation of
21 the Constitution of Alabama of 1901, as amended, because the
22 bill defines a new crime or amends the definition of an
23 existing crime.

24 Section 5. This act shall become effective on the
25 first day of the third month following its passage and
26 approval by the Governor, or its otherwise becoming law.